

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

ELLIOTT SIDNER, )  
                      )  
Petitioner,        )  
                      )  
v.                   )     No. 4:11CV289 HEA  
                      )  
SCOTT LAWRENCE,    )  
                      )  
Respondent,        )

**OPINION, MEMORANDUM AND ORDER**

This matter is before the Court on the Report and Recommendation of retired Magistrate Judge Frederick R. Buckles that the Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, [Doc. No.1], be dismissed without further proceedings. This Report and Recommendation was entered on October 30, 2013. Judge Buckles advised the parties that they had up to and including November 13, 2013 to file objections to the Report and Recommendation. On December 11, 2013, Petitioner filed a Motion for Extension of time to file his objections. Although the Motion was not timely filed, the Court granted Petitioner an extension, based on his representation to the Court that he had only received the Report and Recommendation on December 7, 2013. Petitioner advised the Court on December 11, 2013 of his new address. The Court granted Petitioner's Motion for Extension, gave Petitioner up to and including January 23, 2014 to file his objections and mailed this Order to Petitioner's new address. Petitioner has not

filed any objections to the Report and Recommendation within the extended time for so filing.

After careful consideration, the Court will adopt and sustain the thorough analysis and reasoning of Judge Buckles as set forth in his October 30, 2013 Report and Recommendation.

#### **Certificate of Appealability**

The federal statute governing certificates of appealability provides that “[a] certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A substantial showing of the denial of a constitutional right requires that “issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings.” *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997). Based on the record, and the law as discussed in Judge Buckle’ Report and Recommendation, the Court finds that Petitioner has not made a substantial showing of the denial of a constitutional right.

Accordingly,

**IT IS HEREBY ORDERED** that the Petition of Elliott Sidner for Writ of Habeas Corpus, [Doc. No. 1], pursuant to 28 U.S.C. § 2254 is dismissed without further proceedings.

**IT IS FURTHER ORDERED** that a Certificate of Appealability will not issue in that Petitioner has not made a substantial showing of the denial of a

federal constitutional right.

A separate judgment in accordance with this Memorandum and Order is entered this same date.

Dated this 27th day of January, 2014.



---

HENRY EDWARD AUTREY  
UNITED STATES DISTRICT JUDGE